

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

AUTO-OWNERS INSURANCE  
COMPANY,

Plaintiff,

vs.

WILLIAM L. HARGRAVE,  
*et al.*

Defendants.

No. 1:14-cv-01512-JMS-DML

Report and Recommendation that Default be Entered Against  
Defendants

Sheila Cooper was served in this action as personal representative of the estate of William L. Hargrave, deceased, and as trustee of the Hargrave Family Trust, and appeared by counsel not long after. (*See* Dkts. 16, 17.) On March 5, 2015, counsel for Ms. Cooper filed a motion to withdraw his appearance, which this court denied for failure to comply with the local rules. (Dkts. 21, 22) On March 8, 2015, counsel for Ms. Cooper filed an amended motion to withdraw his appearance. (Dkt. 23) In that motion, counsel for Ms. Cooper informed the court that Ms. Cooper advised his law firm that she intended to retain other counsel. The court granted the amended motion to withdraw on May 12, 2015. (Dkt. 24) Months went by and no appearance was filed by replacement counsel. Therefore, on September 14, 2015, the court ordered counsel to appear on behalf of Ms. Cooper within twenty-one days from the date of entry of the Order. The court informed Ms. Cooper that a representative of a party may proceed only by counsel and warned her that failure

to appear by counsel by the deadline would result in the recommendation that a default be entered. To date, no appearance has been filed.

A representative of a party may proceed only by counsel. *See, e.g., Cavanaugh v. Cardinal Local School District*, 409 F.3d 753, 755 (6th Cir. 2005).<sup>1</sup> Ms. Cooper had ample time to retain replacement counsel prior to this court's September 14, 2015 Order, in addition to the twenty-one days the court allowed for counsel to appear in that Order. Because defendant William Hargrave is deceased, and Ms. Cooper, who is defending this action as personal representative of the estate of William L. Hargrave and as trustee of the Hargrave Family Trust, has not appeared by counsel, a default should be entered against the defendants. The Magistrate Judge HEREBY RECOMMENDS to the District Judge that a DEFAULT be entered against all defendants because named defendant William L. Hargrave is deceased and Ms. Cooper, as representative of the other two named defendants, is not permitted to defend this action without counsel.

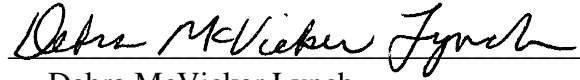
Any objections to the Magistrate Judge's Report and Recommendation must be filed in accordance with 28 U.S.C. § 636(b)(1) and Fed R. Civ. P. 72(b). Failure to file objections within fourteen days will constitute a waiver of subsequent review absent a showing of good cause for such failure.

IT IS SO RECOMMENDED.

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<sup>1</sup> The Seventh Circuit recently reaffirmed this principle in an unpublished decision. *Jones v. Griggs*, 2015 WL 4861694 at \*2 (7th Cir. Aug. 14, 2015).

Date: October 7, 2015

A handwritten signature in black ink, reading "Debra McVicker Lynch", written over a horizontal line.

Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

**Distribution:**

All ECF-registered counsel of record via email generated by the court's ECF system

Via first-class U.S. mail:

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